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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/024,770	12/20/2001	Kevin S. Dombrowski	US 010681	4020

24737 7590 08/26/2003

PHILIPS INTELLECTUAL PROPERTY & STANDARDS  
P.O. BOX 3001  
BRIARCLIFF MANOR, NY 10510

EXAMINER

QUARTERMAN, KEVIN J

ART UNIT	PAPER NUMBER
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2879

DATE MAILED: 08/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/024,770	Applicant(s) DOMBROWSKI ET AL.	
	Examiner Kevin Quarterman	Art Unit 2879	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 July 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 31 July 2003 is: a) ☒ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Response to Amendment***

1. Applicant's Amendment A, filed 31 July 2003, has been entered and overcomes the objection to the drawings.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nelson (US 6157131) in view of Rajaram (US 6136736).
4. Regarding independent claim 1, Figure 1 of Nelson shows a lamp comprising a light source (10) having a pair of opposed leads (12); a protective sleeve (16) around the light source; and a metal frame (24, 32) supporting the sleeve. In regards to independent claim 6, Figure 1 of Nelson also shows a ceramic metal halide arc tube (10). In regards to claim 9, Figure 1 of Nelson also shows the tubular sleeve having an upper end (18), and oppositely facing lower end (26), and an internal surface (22) extending between the ends, the lamp further comprising an insulating member (40) fixed between the frame members above the upper end of the sleeve.
5. Regarding claims 2-3 and 7-8, the functional recitations that the lamp exhibits a color temperature of 3000K, an improved color rendering index, and an improved red

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transmission in the claims have not been given patentable weight because they are narrative in form. In order to be given patentable weight, a functional recitation must be expressed as a “means” for performing the specified function, as set forth in 35 USC § 112, 6<sup>th</sup> paragraph, and must be supported by recitation in the claim of sufficient structure to warrant the presence of the functional language. Apparatus claims cover what a device *is*, not what a device *does* (MPEP § 2114 [R-1]).

6. Nelson discloses the claimed invention but fails to exemplify, also in regards to claims 4-6, the protective sleeve comprising neodymium.

7. Rajaram teaches that it is known in the art to provide lamps with envelopes having a glass composition including quartz with neodymium (Abstract). Rajaram discloses that this glass composition with neodymium may be suitable for any type of lamp envelope (col. 6, ln. 15-19). Rajaram also discloses that color and other functional properties are optimized through use of this glass composition (col. 5, ln. 14-16; col. 10, ln. 39-42).

8. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the quartz sleeve of Nelson with neodymium, as taught by Rajaram, for improving lumen output of the lamp, since it is within the general skill of a worker in the art to select a known material based on its suitability for its intended use (MPEP § 2144.07).

***R sponse to Arguments***

9. Applicant's arguments filed 31 July 2003 have been fully considered but they are not persuasive.

10. In response to applicant's argument that there is no teaching or suggestion in the cited prior art that Nd (neodymium) be used exclusively in the protective sleeve, the Examiner submits that applicant does not claim the protective sleeve having Nd, exclusively. Applicant's claim 4, and also throughout the specification, states that the protective sleeve is a material selected from quartz and Vycor doped with neodymium. The Examiner also notes that the terms "comprises" and "composed" used in the claims are open terms that leave the possibility of having other components present in the sleeve.

***Conclusion***

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

12. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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**Contact Information**


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Quarterman whose telephone number is (703) 308-6546. The examiner can normally be reached on M-F (8-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nimesh Patel can be reached on (703) 305-4794. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7382 for regular communications and (703) 308-7382 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Kevin Quarterman  
Examiner  
Art Unit 2879

kq   
August 21, 2003

  
Nimesh Patel  
Supervisory Patent Examiner  
Art Unit 2879